

Belvedere: April 28, 2005
Jerry Butler

Corte Madera: **TO:** Transportation Authority of Marin Commissioners
Melissa Gill

Fairfax: **RE:** Consider Supporting State Transportation Legislation, GoCalifornia
Lew Tremaine Package, SB 1020, ACA 15; Status report on AB 1623

Larkspur: Dear Commissioners:
Joan Lundstrom

Mill Valley: At the March 24, 2005 meeting of TAM, there was discussion of recently
Dick Swanson introduce legislation by the Schwarznegger administration called GoCalifornia and SB 1020 introduced by Senator Migden regarding TDA.

Novato: Staff was asked to investigate MTC's position on these efforts and agendize
Pat Eklund them for discussion. Attached are staff reports from MTC's March 4, 2005

Ross: Legislative Committee meeting. At the meeting, the Committee adopted all the
Tom Byrnes recommendations regarding GoCalifornia.

San Anselmo: The current status of Proposition 42 is:
Peter Breen

San Rafael: Under current law, the suspended Proposition 42 amounts for FY03-04
Al Boro and FY04-05 (\$868 billion and \$1.2 billion respectively to all local agencies) are to be repaid - plus interest - by FY07-08 and FY08-09. In his proposed FY05-06 budget, the Governor has proposed to spread the repayment of these loans over 15 years - WITHOUT interest. Further, should the FY05-06 Prop 42 allocation be suspended (as he proposes), he proposes a 15 year repayment with no interest for that as well.

Tiburon:

Alice Fredericks

County of Marin: For a good (and much more thorough) discussion of this issue, see the
Susan Adams Legislative Analysts Office's piece on Transportation funding in the LAO
Hal Brown Analysis of the 2005-06 Budget bill at
Steve Kinsey http://www.lao.ca.gov/analysis_2005/2005_pandi/pi_part_5_4_trans_funding_anl05.htm
Charles McGlashan
Cynthia Murray

Attached is the staff report from April 8, 2005 MTC Legislative Committee meeting regarding SB 1020. SB 1020 would allow a county to increase the current ½-cent sales tax (TDA) for public transportation by ¼-cent.

At the March 24, 2005 meeting of TAM, the Commission took action to request inclusion in AB 1623, which would allow the county to collect a motor vehicle fee for management of traffic congestion. Staff prepared a letter of support from TAM, and the Board of Supervisors sent a similar letter. Additional letters of support are being requested from the cities and towns. Attached is the latest version of the bill. The bill is scheduled to be heard at the Assembly Transportation Committee April 25, 2005. In addition, as requested staff followed up with San Mateo Council of Governments on implementation of their

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program, which was authorized by the legislature last year. They had a public hearing on the program, with no negative comments from the public. The fee goes into effect in San Mateo County on July 1, 2005.

Chair Kinsey also requested ACA 15 be agendized for discussion, this measure would prohibit the Governor from concluding gaming compacts until January 1, 2008. A copy is attached.

Recommendation

Staff recommends the Commission discuss the pending legislation and provide direction to staff.

Respectfully Submitted,

Craig Tackabery
Executive Director

Attachment:

1. MTC staff report regarding GoCalifornia dated March 4, 2005
2. MTC staff report regarding GoCalifornia Initiative: Proposition 42, dated March 4, 2005
3. MTC staff report regarding SB 1020, dated April 1, 2008
4. Assembly Bill 1623
5. Assembly Constitutional Amendment 15



**METROPOLITAN
TRANSPORTATION
COMMISSION**

Agenda Item 4d

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Memorandum

TO: Legislation Committee

DATE: March 4, 2005

FR: Deputy Director, Policy

RE: GoCalifornia

Description

Business, Transportation and Housing Secretary Sunne Wright McPeak recently unveiled a three-bill package as the Schwarzenegger administration's plan to reform and revitalize California's transportation system. The "GoCalifornia" package includes a so-called "innovative finance" proposal, AB 850, and seeks to streamline project delivery with SB 705 and AB 1266. These ideas were included in the governor's California Performance Review (CPR) last year. In addition to these three bills, we included for your consideration an additional bill that is relevant to this discussion, AB 509 (Richman).

In addition to the Administration's three-bill package, "GoCalifornia" includes the administration's previously introduced measure to secure Proposition 42 funds in the future. We have included our analysis of that effort in a separate memorandum also distributed today.

Recommendations: AB 850 (Canciamilla) — Support and seek amendments
AB 509 (Richman) — Support
AB 1266 (Niello) — Support
SB 705 (Runner) — No position at this time

Discussion

AB 850 (Canciamilla) authorizes Caltrans to enter into development franchise agreements with public and/or private entities or consortia, not defined, for the construction and lease of (1) HOT lanes, (2) dedicated truck lanes, (3) mixed-flow toll lanes and "free" lanes, and (4) toll lanes "for all vehicles other than high-occupancy vehicles." The measure includes language to limit construction of new facilities that would compete with the toll roads and provide private investors with a reasonable rate of return.

A bill of particular interest among other bills recently introduced to address tolling or toll facilities is AB 509 (Richmond), a one sentence bill that authorizes regional transportation agencies to enter into agreements to finance regional user-fee based transportation projects, such as high-occupancy/toll (HOT) lanes.

In general terms, both AB 850, and AB 509 are consistent with MTC's recently adopted *Transportation 2030* initiative for a regional HOT lane network. AB 509 is limited in scope to facilitate regions, such as the Bay Area, to explore the feasibility of a HOT lane network. It is unclear, however, how AB 850 would affect the Bay Area's ability to move forward with a strategy in that sole authority is vested with Caltrans and as-yet undefined other public players and private investors.

In addition, AB 850 is much larger in scope than AB 509 to envision a broad authority to build and operate toll roads and enter into partnerships with private and public entities across California. It is worth noting that this concept is not new. Fifteen years ago, part of the package that resulted in the 1990 fuel tax increase in California — Proposition 111 — authorized Caltrans to enter into agreements with private entities for the construction by, and lease to, private entities of four transportation demonstration projects, including at least one in northern California and one in southern California. In addition to private toll road franchises created by AB 680, three publicly owned toll roads have also been built in Southern California.

The project in the Bay Area known as the mid-state toll road proposal was considered but Caltrans terminated the franchise in 2001 due to opposition in the Bay Area. In Southern California, one toll road was eventually built, Route 91 Express lanes in Orange County; a second is under construction, Route 125 in San Diego; and a third, Route 57, Orange County, is still under study. However, the project histories have been decidedly mixed. SR 91 is no longer a public-private partnership because the Orange County Transportation Authority and Orange County taxpayers bought out the private partner. In addition, the public toll road projects in Southern California have had a checkered past with respect to not meeting their financial projections.

Whether or not private or public toll roads can be successful in the future is a larger issue than our immediate interest in seeking an avenue to implement the direction of HOT lanes contained in *Transportation 2030*. Consequently, we recommend a "support" position on AB 509 and we recommend a "support and seek amendments" position on AB 850 to request language that would provide a clear means for MTC to participate in the process of developing toll facilities in the Bay Area.

AB 1266 (Niello) Design-Sequencing - Existing law authorizes Caltrans, until Jan. 1, 2010, to conduct a pilot project to award design-sequencing contracts for not more than 12 transportation projects. AB 1266 would instead authorize Caltrans to award contracts for projects using the design-sequencing contract method. Design sequencing authorization was added in 1999 and was last amended in 2004 by Senator Torlakson to extend the date to 2010 and double the number of projects to twelve.

At its core, design sequencing helps Caltrans shortcut its own processes. What separates design-sequencing from Caltrans traditional contracting methods is that design-sequencing enables construction activities to begin prior to the full completion of the design phase, allowing Caltrans to jump-start construction.

As of June 2003, Caltrans reported that 11 of the 12 projects had been chosen and that eight of the projects were in the construction phase. Three of the eight projects were opened to the public. The selected projects are all highway-related and include interchanges, freeway widenings, etc. Preliminary assessment of the projects indicates project completion timesavings of one to 20 months.

SB 705 (Runner) gives Caltrans broad authority to use the “design-build” process, whereby a contractor is selected to both design and construct a project under a single agreement. Traditionally, Caltrans uses the lengthy design-bid-build process, whereby Caltrans engineers design the project and Caltrans subsequently awards the construction to a private firm. If the construction effort founders on a design issue, Caltrans manages the problem (such as a change order) and the contractor moves on. In the “design-build” process this problem remains with the contractor for resolution, as they are both designer of record and builder.

Unlike design sequencing, design-build comes with significant known opposition from the Professional Engineers of California Government (PECG), the union representing 13,000 state-employed engineers, architects and land surveyors mostly working at Caltrans. Last year, PECG strongly opposed the CPR recommendation for design-build and design-build-operate procurement for state infrastructure, including transportation projects. PECG believes that the design-build procurement method eliminates competitive bidding and institutes a highly subjective procedure that has historically led to favoritism, waste and delay.

The Legislative Analyst’s Office recently completed a report on design build and concludes:

Design-build can provide state and local agencies with a useful alternative to the more commonly used design-bid-build process to deliver construction projects. However, to the extent design-build contracts are awarded based solely on subjective criteria, there is an opportunity for compromising the public procurement process. Thus, it is important that statutory changes that make the design-build process more widely available to state and local agencies also preserve the public's confidence in the procurement process. Using construction management with competitive bidding of subcontracts or a two-envelope system can achieve that.

Because the full ramifications of design-build for state-sponsored projects is not fully known, we recommend not taking a position on SB 705 at this time. It is likely that this bill will undergo changes, and we need more time to understand the full effect of a broad authority granted to Caltrans for design-build.

Therese W. McMillan



METROPOLITAN
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Agenda Item 4d

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Memorandum

TO: Legislation Committee

DATE: March 4, 2004

FR: Deputy Director, Policy

RE: GoCalifornia Initiative: Proposition 42

Description

GoCalifornia touches on some important themes that are a priority for the commission, such as project delivery and new financing options. But one crucial step Sacramento must take to get California moving this year is to address a fundamental problem of decades in the making. Simply put, state investment in the transportation system has not kept pace with usage. Since the passage of Proposition 42 in 2002, funds identified for transportation have been used to solve deficits in the state's General Fund. While protecting the \$1.3 billion in annual transportation revenues generated by Proposition 42 is no panacea, it is widely believed to be the first step needed in building a convincing case for additional transportation revenue.

Recommendations: ACA 4 (Plescia) — Support and seek amendments
ACA 11 (Oropeza) — Support and seek amendments
ACA 4X (Keene) — Oppose unless amended
ACA 9 (Bogh) — No position at this time
ACA 10 (Nunez) — No position at this time

Discussion

MTC's 2005 Legislative Program states that the ideal constitutional amendment dealing with Proposition 42 would contain the following components:

1. Delete the provision that allows the funds to be suspended, and instead permit funds to be loaned to the General Fund on the condition they are repaid within three years, with interest.
2. Provide that no more than two loans should be permitted in any ten-year period.
3. Prohibit any additional loans until the first loan is repaid.
4. Ensure that the statutory commitment to the 159 projects in the Traffic Congestion Relief Program (TCRP) is fully honored.

Items 2 and 3 will sound familiar: they are based on provisions contained in last year's successful local government initiative (Proposition 1A). Item 4 is particularly important for the Bay Area. As you know, Proposition 42 provided funding for the 159 TCRP projects through FY 2007-08, including 37 in the Bay Area. Because the law included a cut-off date for this funding, a shortfall is created in any year in which the funds are suspended. To date, the

Bay Area has received less than one-third of the statutory commitment of \$1.6 billion towards specific Bay Area projects, including \$725 million for BART-to-Warm Springs. Absent legislative action to restore this "lost" funding, many critical projects will be left with gaping holes in their budgets.

As shown below, five constitutional amendments have been introduced to date specifically on the subject of Proposition 42. ACA 9 (Bogh) would change the vote threshold required for a suspension from two-thirds to four-fifths, while ACA 10 (Nunez) is just a "spot" bill. None of the other bills contain *all* of the above provisions, but ACA 11 (Oropeza) comes the closest, containing all but the protection of the TCRP projects.

Constitutional Amendments Introduced Related to Proposition 42

	Removes suspension	Loan repaid with interest	Cap on number of loans and 3-year limit	Protects TCRP projects	Recommended position
ACA 4 (Plescia)	√				Support and seek amendments
ACA 4X (Keene)	√				Oppose unless amended
ACA 9 (Bogh)					No position at this time
ACA 10 (Nunez)					No position at this time
ACA 11 (Oropeza)	√	√	√		Support and seek amendments

In addition to removing the suspension provision, ACA 4X (Plescia) contains the governor's proposal for across-the-board cuts to General Fund programs in the event that revenues are not keeping pace with anticipated expenditures and the Legislature fails to act within 45 days. This would include Proposition 42-funded programs, as it would still fall under the "General Fund" umbrella. Given that this would continue to expose transportation to unpredictable cuts, we recommend an "oppose unless amended" position on ACA 4X. With regard to ACA 9, we believe that although the path toward more stringent supermajorities seems like a poor substitute for direct steps to secure this funding source for transportation, this path has been taken in prior years with respect to protecting transportation funding. Given ACA 9 is a less favorable alternative; we recommend taking no position at this time.

For ACA 11 and ACA 4, we recommend a "support and seek amendments" position, where the amendments would be to add the missing pieces from our four components listed above. With regard to ACA 10 (which is currently a spot bill) we recommend that we wait until the bill is amended before taking a position.

Therese McMillan



**METROPOLITAN
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COMMISSION**

Agenda Item 6b

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Memorandum

TO: Legislation Committee

DATE: April 1, 2005

FR: Executive Director

RE: SB 1020 (Migden) — Transportation Development Act: Authorization to Double

Description

This bill would provide counties statewide with the opportunity to increase funding for transit service and rural streets and roads by allowing county boards of supervisors to place on a countywide ballot the option of doubling the existing one-quarter percent sales tax now collected under the Transportation Development Act (TDA) dedicated specifically to local transportation. The additional one-quarter percent *would not* be subject to the cap of 1.5 percent for local optional sales tax rates, so it would have no impact on a county's ability to raise its sales tax rate for other purposes.

Recommendation: Support

Discussion

This legislation is similar to AB 1065 (Longville) from 2004, which MTC supported but which stalled in the Senate Revenue and Taxation Committee. The sponsors — the City and County of San Francisco and the California Transit Association — believe the climate is better for passage this year, however, due to changes in the membership of the Senate Revenue and Taxation Committee.

Background on the Transportation Development Act

In 1971, then-Governor Reagan signed into law the Transportation Development Act (Senate Bill 325, Mills-Alquist-Deddeh, Chapter 1400, Statutes of 1971), which authorized the board of supervisors in each county to impose a sales and use tax within the county. The act provided that the revenues collected by the State Board of Equalization (BOE) in excess of 1 percent, but not more than 1.25 percent, would be returned to each county that established a Local Transportation Fund. Soon after passage, the boards of supervisors in all 58 counties imposed the tax. The monies collected were authorized exclusively to provide public transit service and to maintain streets and roads in rural counties that can demonstrate they have no unmet transit needs. The revenue derived from TDA (estimated at \$272 million for the San Francisco Bay Area in FY 2005-06) has proven to be the backbone of transit operating subsidy and rural road repair throughout California.

Overwhelming Need for New Transit Operating Funds

While transit systems have expanded dramatically over the last 30 years, including major BART extensions, as well as new bus and light rail service throughout the Bay Area, no new permanent transit operating funds have materialized for decades. During the recent recession, transit agencies throughout our region, including Alameda-Contra Costa Transit District (AC Transit), Santa Clara Valley Transportation Authority, and the Golden Gate Bridge, Highway, and Transportation District, have been forced to raise fares and cut service substantially, and our Transportation 2030 Plan projects a transit operating shortfall totaling \$1.5 billion that will need to be addressed with similar fare and service changes absent a new source of operating funds.

Overwhelming Need for Local Road Repair

Prior to the passage of Proposition 111 in 1990, cities and counties together shared revenues generated from the state fuel tax equally with the State Highway Account. That percentage is now only 36 percent for the local jurisdiction. In addition, the state fuel tax has not been raised since 1990 and since then inflation has eroded the value of a dollar by 32 percent. These facts help explain why local municipalities in the Bay Area face a staggering shortfall of \$6.1 billion to repair local streets and roads as estimated in the Transportation 2030 Plan. While only the four northern counties in the Bay Area would be eligible (based on having a population under 500,000) to use this fund source for local streets and roads, the effect there could be substantial.

Supermajority Vote Requirement

The bill is written to state that the vote requirements must comply with whatever provisions are in place in the California Constitution at the time of the vote, meaning that if the proposal was placed on the ballot under current requirements, a two-thirds majority vote would be required for passage.

SB 1020 comes at a time when there are very few options for new transit operating support on the horizon. For the reasons stated above, seeking a new transit funding source has been made part of MTC legislative program for many years. We therefore recommend a support position on SB 1020.

Known Positions

Support

California Transit Association (co-sponsor)
City and County of San Francisco (co-sponsor)

Oppose

None

Steve Heminger

AMENDED IN ASSEMBLY APRIL 12, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1623

Introduced by Assembly Member Klehs

February 22, 2005

An act to add Chapter 2.66 (commencing with Section 65089.20) to Division 1 of Title 7 of the Government Code, and to add Section 9250.4 to the Vehicle Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1623, as amended, Klehs. ~~Alameda County Congestion Management Agency~~ *County transportation agencies*: congestion management and environmental mitigation fee.

Existing law provides for the imposition by air districts and other local agencies of fees on the registration of motor vehicles in certain areas of the state that are in addition to the basic vehicle registration fee collected by the Department of Motor Vehicles.

This bill would authorize the Alameda County Congestion Management Agency, *the Contra Costa Transportation Authority, the Transportation Authority of Marin, and the Napa County Transportation Planning Agency* to impose an annual fee of up to ~~\$4~~ \$5 on motor vehicles registered within ~~Alameda County~~ *those counties* for a program for the management of traffic congestion and the mitigation of environmental impacts of motor vehicles within that county. The bill would require the agency to have an independent audit performed on the program and to provide its findings to the Legislature. The bill would require a program with performance measures and a budget before the fee may be imposed. The bill would require the Department of Motor Vehicles, if requested, to collect the fee and distribute the proceeds, after deduction of specified

administrative costs, to the agency. The bill would require that the fees collected may only be used to pay for programs bearing a relationship or benefit to the motor vehicles paying the fee, and would require the agency to make a specified finding of fact by a 2/3 vote. The fee would terminate on ~~January 1, 2012~~ *10 years and 6 months after the effective date of the bill.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 2.66 (commencing with Section
2 65089.20) is added to Division 1 of Title 7 of the Government
3 Code, to read:

4
5 CHAPTER 2.66. MANAGEMENT OF TRAFFIC CONGESTION AND
6 ENVIRONMENTAL MITIGATION OF TRANSPORTATION IN ~~ALAMEDA~~
7 ~~COUNTY ALAMEDA, CONTRA COSTA, MARIN, AND NAPA~~
8 *COUNTIES*
9

10 65089.20. (a) ~~The Alameda County Congestion Management~~
11 ~~Agency, which has been formed by the resolutions of the Board~~
12 ~~of Supervisors of Alameda County and a majority of the city~~
13 ~~councils within the county that represent a majority of the~~
14 ~~population in the incorporated area of Alameda County, may~~
15 ~~impose a fee of up to four dollars (\$4) on motor vehicles~~
16 ~~registered within Alameda County. The agency may impose the~~
17 ~~fee only if the board of the agency adopts a resolution providing~~
18 ~~for both the fee and a corresponding program for the~~
19 ~~management of traffic congestion and the mitigation of the~~
20 ~~impacts of motor vehicles on the environment within Alameda~~
21 ~~County as set forth in Sections 65089.21 to 65089.24, inclusive.~~
22 ~~Adoption by the board requires a vote of approval by board~~
23 ~~members representing two-thirds of the population of Alameda~~
24 ~~County. As used in this chapter, "county transportation agency"~~
25 ~~means the Alameda County Congestion Management Agency, the~~
26 ~~Contra Costa Transportation Authority, the Transportation~~
27 ~~Authority of Marin, and the Napa County Transportation~~
28 ~~Planning Agency.~~

1 (b) A county transportation agency may impose a fee of up to
2 five dollars (\$5) on motor vehicles registered within the county if
3 the board of the county transportation agency adopts a
4 resolution providing for both the fee and a corresponding
5 program for the management of traffic congestion and the
6 mitigation of the impacts of motor vehicles on the environment as
7 set forth in Sections 65089.21 to 65089.24, inclusive. Adoption
8 by the board requires a vote of approval by board members
9 representing two-thirds of the population of the county.

10 ~~(b)~~

11 (c) A fee imposed pursuant to this section shall not become
12 operative until ~~July 1, 2006~~, six months after the effective date of
13 this section and pursuant to the resolution adopted by the board
14 in subdivision ~~(a)~~ (b).

15 ~~(e)~~

16 (d) The authority to impose the fee shall terminate ~~on January~~
17 ~~1, 2012, unless preauthorized by the Legislature 10 years and six~~
18 ~~months after the effective date of this section.~~

19 65089.21. (a) The fees distributed to the county
20 transportation agency pursuant to Section 9250.4 of the Vehicle
21 Code shall be used for purposes of congestion management as
22 specified in ~~its adopted congestion management program~~
23 ~~pursuant to~~ Section 65089, and for the purposes of the mitigation
24 of the impacts of motor vehicles on the environment.

25 (b) (1) The fees collected may be used to pay for programs
26 with a relationship or benefit to the motor vehicles that are
27 paying the fee.

28 (2) Prior to imposing the fee, the board of ~~the association~~
29 ~~county transportation agency~~ shall make a finding of fact by ~~a~~
30 ~~2/3 vote~~ two-thirds of the authorized vote of the board of that
31 county transportation agency that those programs bear a
32 relationship or benefit to the motor vehicles that will pay the fee.

33 (c) The purpose of the congestion management program is to
34 address motor vehicle congestion.

35 (d) Only the environmental mitigation programs that directly
36 address the negative impact motor vehicle usage has on the
37 environment, such as air pollution, and *pollution of* storm water
38 runoff caused by motor vehicles and the infrastructure supporting
39 motor vehicle travel, are eligible for funding.

1 (e) Not more than 5 percent of the fees distributed to the
2 *county transportation* agency shall be used by the association for
3 its administrative costs associated with the program.

4 65089.22. Prior to the imposition of the fee by the *county*
5 *transportation* agency, a specific program with performance
6 measures and a budget shall first be developed and adopted by
7 the *county transportation* agency at a noticed public hearing.

8 65089.23. The *county transportation* agency shall have an
9 independent audit performed on the specific program adopted
10 pursuant to Section 65089.22 with the review and report
11 provided to the board at a noticed public hearing.

12 65089.24. The *county transportation* agency shall provide a
13 report to the Legislature on the specific program adopted
14 pursuant to Section 65089.22 by July 1, ~~2008~~ 2011.

15 SEC. 2. Section 9250.4 is added to the Vehicle Code, to read:

16 9250.4. (a) The department shall, if requested by ~~the~~
17 ~~Alameda County Congestion Management Agency~~ a *county*
18 *transportation* agency, collect the fee imposed pursuant to
19 Section 65089.20 of the Government Code upon the registration
20 or renewal of registration of any motor vehicle registered in the
21 county, except those vehicles that are expressly exempted under
22 this code from the payment of registration fees.

23 (b) ~~The~~ *A county transportation* agency shall pay for the initial
24 setup and programming costs identified by the Department of
25 Motor Vehicles through a direct contract with the department.
26 Any direct contract payment by the *county transportation* agency
27 shall be repaid, with no restriction on the funds, to the *county*
28 *transportation* agency as part of the initial revenues distributed.
29 Regular Department of Motor Vehicles collection costs shall be
30 in accordance with subdivision (c). These costs shall not be
31 counted against the 5-percent administration cost limit specified
32 in subdivision (e) of Section 65089.21.

33 (c) After deducting all costs incurred pursuant to this section,
34 the department shall distribute the revenues to the *county*
35 *transportation* agency.

36 (d) As used in this section, ~~“agency”~~ “*county transportation*
37 *agency*” means the Alameda County Congestion Management
38 Agency, the Contra Costa Transportation Authority, the
39 Transportation Authority of Marin, and the Napa County
40 Transportation Planning Agency.

Assembly Constitutional Amendment

No. 15

Introduced by Assembly Member Nation

March 16, 2005

Assembly Constitutional Amendment No. 15—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by adding and repealing Section 23 of Article IV, and by adding and repealing Section 8.5 of Article V thereof, relating to gaming.

LEGISLATIVE COUNSEL'S DIGEST

ACA 15, as introduced, Nation. Tribal-state gaming compacts.

The federal Indian Gaming Regulatory Act of 1988 provides for the negotiation and execution of tribal-state gaming compacts for the purpose of authorizing certain gaming activities on Indian lands within a state. The California Constitution authorizes the Governor to negotiate and conclude, subject to ratification by the Legislature, tribal-state gaming compacts, and existing law ratifies specified gaming compacts.

This measure would prohibit the Governor from concluding gaming compacts, as specified, until January 1, 2008. The measure would establish, until January 1, 2008, the Commission on Gaming to study and review all aspects of gaming in California, as specified. The measure would require the commission to submit a report of that study to the Legislature and the Governor on or before January 1, 2007.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

- 1 WHEREAS, Casino-style gambling on Indian lands was
- 2 authorized by the people of California by the enactment of

1 Proposition 1A in March 2000 with the understanding that tribal
2 gaming operations would be limited to existing Indian lands; and

3 WHEREAS, Since 2000, tribal gambling operations in
4 California have grown at an unprecedented rate, with more than
5 60 tribal casinos and nearly 60,000 slot machines on tribal lands.
6 New tribal gambling proposals continue throughout California;
7 and

8 WHEREAS, Tribal gambling in California now generates
9 more than \$5 billion annually in gross revenues; and

10 WHEREAS, Tribal casino operations have caused extensive
11 off-reservation impacts, such as high traffic on inadequate roads,
12 noise, air, and water pollution, and increased law enforcement
13 and public safety demands, all of which annually cost local
14 governments hundreds of millions of dollars; and

15 WHEREAS, Although some tribes have negotiated agreements
16 with local governments to mitigate these impacts, agreements
17 have not been negotiated for most tribal casinos; and

18 WHEREAS, In addition to environmental impacts, the
19 cumulative effect and cost of tribal casino operations has not
20 been adequately studied or analyzed. As a result, the Legislature
21 is determining whether to ratify proposed compacts with vague
22 and inadequate information; and

23 WHEREAS, It is therefore in the public interest that a
24 moratorium be imposed upon the conclusion or ratification of
25 any additional compacts until further information concerning the
26 impact of tribal gaming operations on the State of California can
27 be gathered and presented to the Legislature; now, therefore, be it

28 *Resolved by the Assembly, the Senate concurring,* That the
29 Legislature of the State of California at its 2005-06 Regular
30 Session commencing on the sixth day of December 2004,
31 two-thirds of the membership of each house concurring, hereby
32 proposes to the people of the State of California, that the
33 Constitution of the State be amended as follows:

34 First—That Section 23 is added to Article IV thereof, to read:

35 SEC. 23. (a) The Commission on Gaming is hereby
36 established. This commission shall study and review all aspects
37 of gaming in California, and shall consider, at a minimum, all of
38 the factors described in subdivision (d).

39 (b) The Commission on Gaming shall consist of 13 members
40 appointed as follows:

1 (1) Three members appointed by the Governor. The Governor
2 shall also designate one of these members as the chair of the
3 commission.

4 (2) Five members appointed by the Senate Committee on
5 Rules.

6 (3) Five members appointed by the Speaker of the Assembly.

7 (c) The commission shall meet regularly, hold public hearings,
8 review relevant research and law, authorize new research, and
9 solicit public comment. Members of the commission shall not
10 receive compensation, but shall be reimbursed for travel
11 expenses incurred while attending commission meetings.

12 (d) The commission shall consider all of the following issues
13 in relation to gaming:

14 (1) Public safety.

15 (2) Financial impact, including long-term economic effects.

16 (3) Social and environmental impacts.

17 (4) Local control.

18 (5) Consolidation incentives.

19 (6) Further necessary statutory or constitutional provisions
20 relating to tribal gaming.

21 (7) Other issues as the commission deems necessary.

22 (e) The commission shall conduct a study on gaming in
23 California and shall submit a report of that study to the
24 Legislature and the Governor on or before January 1, 2007.

25 (f) The sum of one hundred fifty thousand dollars (\$150,000)
26 is hereby appropriated from the General Fund to the Commission
27 on Gaming for its support.

28 (g) This section shall remain in effect only until January 1,
29 2008, and as of that date is repealed.

30 Second—That Section 8.5 is added to Article V thereof, to
31 read:

32 SEC. 8.5. (a) Notwithstanding Section 19 of Article IV, the
33 Governor shall not conclude any compact for the operation of
34 slot machines or for the conduct of lottery games or banking and
35 percentage card games in the State of California until January 1,
36 2008.

37 (b) This section shall remain in effect only until January 1,
38 2008, and as of that date is repealed.